

public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

SENATE RULE 11.11 SUSPENDED

On motion of Senator Brooks and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on Health and Human Services might consider the following bill and resolution at 1:30 p.m. tomorrow:

S.B. 20

S.C.R. 1

CONGRATULATORY RESOLUTIONS

H.C.R. 10 - (Dickson): Recognizing and affirming the Rockwell-Dallas chapter of the National Management Association.

S.C.R. 7 - By Barrientos: Commending Antonio David Lucero for being selected as the 1990 Outstanding Special Needs Student.

S.C.R. 8 - By Parker: Extending congratulations to Laura Allard, retired Executive Director of the Texas Association for Gifted and Talented.

S.R. 43 - By Ellis: Commending Jewell L. McGowen on her splendid record of achievement and extending best wishes to her for many happy years of retirement.

ADJOURNMENT

On motion of Senator Parker, the Senate at 4:11 p.m. adjourned, in memory of Roberto Ornelas, a former National President of the League of United Latin American Citizens, until 2:00 p.m. tomorrow.

APPENDIX

Sent to Governor
(May 11, 1990)

S.C.R. 4

S.B. 42

Sent to Comptroller
(May 11, 1990)

S.B. 40

FIFTH DAY

(Tuesday, May 15, 1990)

The Senate met at 2:00 p.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brooks, Brown, Caperton, Carriker, Dickson, Edwards, Ellis, Glasgow, Green, Haley, Harris, Henderson, Johnson, Krier, Leedom, Lyon,

McFarland, Montford, Parker, Parmer, Ratliff, Santiesteban, Sims, Tejeda, Truan, Uribe, Whitmire, Zaffirini.

A quorum was announced present.

Senate Doorkeeper Jim Morris offered the invocation as follows:

Our Father, we pause now to ask God's blessing upon each of these that have a vital role in the ongoing reform of the education system of our State. Today may each challenge elicit a response, may each question be matched with an answer and each problem find solution. We ask that Your unceasing and undergirding counsel be with the leadership as they direct the activities here.

In Your name. Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

SENATE BILLS ON FIRST READING

The following bills were introduced, read first time and referred to the Committee indicated:

S.B. 67 by Barrientos Finance
Relating to exempting from ad valorem taxes property owned or leased by certain cooperative research and development organizations.

S.B. 68 by Barrientos Education
Relating to a student health services building fee at the University of Texas at Austin.

S.B. 69 by Barrientos Criminal Justice
Relating to the imposition of court costs in certain criminal cases for the funding of the crime stoppers assistance account; making an appropriation.

S.B. 70 by McFarland Criminal Justice
Relating to the operations of the institutional division, pardons and paroles division, and community justice assistance division of the Texas Department of Criminal Justice and the operations of the Texas Council on Offenders with Mental Impairments; providing a penalty.

S.B. 71 by Brooks Criminal Justice
Relating to the forfeiture or seizure, and the disposition of funds derived from the forfeiture or seizure, of crime-related assets; making an appropriation.

MESSAGE FROM THE HOUSE

House Chamber
May 15, 1990

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

H.C.R. 20, Granting the legislature permission to adjourn for more than three days.

H.C.R. 16, In memory of Gaston Hallam.

S.C.R. 7, Congratulating Antonio David Lucero.

S.C.R. 8, Honoring Laura Allard.

H.C.R. 15, Congratulating Dr. and Mrs. Harl D. Mansur, Jr., on their 50th anniversary.

H.C.R. 18, Congratulating Mr. and Mrs. James Sawyer, Jr., on the birth of James Edward Sawyer III and Amina Inez Sawyer.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

REPORTS OF STANDING COMMITTEES

Senator Truan, Acting Chairman, submitted the following report for the Committee on Health and Human Services:

S.C.R. 1
S.B. 20

Senator Edwards submitted the following report for the Committee on Nominations:

We, your Committee on Nominations, to which were referred the attached appointments, have had same under consideration, and report them back to the Senate for final consideration.

To be Members of the TEXAS JUDICIAL COUNCIL: Judge Ray D. Anderson, Terry County; Mrs. Rae Jackson, Gregg County; Judge Joe Spurlock II, Tarrant County; Nick Taylor, Midland County.

To be a Member of the FAMILY FARM AND RANCH ADVISORY BOARD: James Ronnie Sullins, Coryell County.

To be Members of the FIRE DEPARTMENT EMERGENCY BOARD: Barney J. Oldham, Burnet County; Dan W. Stamper, Travis County.

To be a Member of the EGG MARKETING ADVISORY BOARD: Terry A. Legan, Tarrant County.

To be a Member of the TEXAS COSMETOLOGY COMMISSION: Dr. Nedom C. Muns III, Walker County.

To be a Member of the STATE SEED AND PLANT BOARD: George B. Babcock, Lubbock County.

To be a Member of the GULF STATES MARINE FISHERIES COMMISSION: Charles Belaire, Aransas County.

To be a Member of the BOARD OF TRUSTEES, TEXAS COUNTY AND DISTRICT RETIREMENT SYSTEM: Steve Radack, Harris County.

To be a Member of the TEXAS WATER WELL DRILLERS BOARD: Gary Dean Grant, Hale County.

To be DIRECTOR OF THE OFFICE OF STATE-FEDERAL RELATIONS: Randy Erben, Bexar County.

To be a Member of the BOARD OF REGENTS, MIDWESTERN STATE UNIVERSITY: Milburn E. Nutt, Wichita County.

To be a Member of the BOARD OF REGENTS, TEXAS STATE TECHNICAL INSTITUTE: David W. Taylor, Harris County.

To be a Member of the TEXAS COMMISSION FOR THE DEAF: Clyde S. Black, Bell County.

To be a Member of the TEXAS VETERANS COMMISSION: Colonel James S. Novy, Bexar County.

To be JUDGE OF CRIMINAL DISTRICT COURT NO. 1, TARRANT COUNTY: Ms. Sharen Wilson, Tarrant County.

To be JUDGE OF THE 238TH JUDICIAL DISTRICT COURT, MIDLAND COUNTY: John Gary Hyde, Midland County.

To be Members of the HOSPITAL LICENSING ADVISORY COUNCIL: Dr. David G. Borman, Wichita County; David C. Bush, Harris County.

To be a Member of the BOARD OF MEDICAL EXAMINERS, DISTRICT IV REVIEW COMMITTEE: Dr. Clyde R. Danks, Travis County.

To be a Member of the STATE COMMITTEE OF EXAMINERS FOR SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY: Dr. Gene R. Powers, Travis County.

To be BRANCH PILOTS FOR THE PORTS OF GALVESTON COUNTY: Captain William R. Kern, Galveston County; Captain Edgar L. King, Galveston County.

To be a Member of the SCHOOL LAND BOARD: William F. Warnick, Lubbock County.

CAPITOL PHYSICIAN

Senator Edwards was recognized and presented Dr. Jeff Stewart of Waco.

Dr. Stewart, participating in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians, was welcomed by the Senate and received an expression of gratitude for his service today.

SENATE RESOLUTION 11

Senator Truan offered the following resolution:

S.R. 11, Commending PADRES for its efforts to involve families in the war against drug and alcohol abuse to promote a drug-free environment, and also commending the winning family and runners-up for setting a splendid example of community spirit on behalf of the citizens of their state.

GUESTS PRESENTED

At the President's request, Senator Truan escorted the following guests to the President's Rostrum: Wendy and Marcos Segovia and their son, Joshua, winners of the Hispanic Family of the Year Award; Shirley and Martin Garcia, Jr., first runner-up; and Ms. Mary Alice Salinas and Joe A. Gonzalez.

The Senate welcomed these guests as the President presented to them copies of **S.R. 11**, adopted by the Senate on May 3, 1990.

SENATE RESOLUTION 55

Senator Brown offered the following resolution:

S.R. 55, Commending First Lady Barbara Bush for her selfless devotion and dedication to her family.

The resolution was read and was adopted viva voce vote.

HOUSE CONCURRENT RESOLUTION 20

The President laid before the Senate the following resolution:

H.C.R. 20, Granting the Legislature permission to adjourn for more than three days during the period beginning on Tuesday, May 15, 1990, through Thursday, May 31, 1990.

The resolution was read.

On motion of Senator Brooks and by unanimous consent, the resolution was considered immediately and was adopted viva voce vote.

SESSION TO CONSIDER EXECUTIVE APPOINTMENTS

On motion of Senator Edwards and by unanimous consent, Senate Rule 14.02 was suspended in order to consider for confirmation those nominees reported today by the Committee on Nominations.

Senator Edwards moved confirmation of the nominees reported today by the Committee on Nominations.

The President asked if there were requests to sever.

There were no requests to sever.

NOMINEES CONFIRMED

The following nominees reported today by the Committee on Nominations were confirmed by the following vote: Yeas 29, Nays 0.

Absent: Lyon, Santiesteban.

Members, Texas Judicial Council: JUDGE RAY D. ANDERSON, Terry County; MRS. RAE JACKSON, Gregg County; JUDGE JOE SPURLOCK II, Tarrant County; NICK TAYLOR, Midland County.

Member, Family Farm and Ranch Advisory Board: JAMES RONNIE SULLINS, Coryell County.

Members, Fire Department Emergency Board: BARNEY J. OLDHAM, Burnet County; DAN W. STAMPER, Travis County.

Member, Egg Marketing Advisory Board: TERRY A. LEGAN, Tarrant County.

Member, Texas Cosmetology Commission: DR. NEDUM C. MUNS III, Walker County.

Member, State Seed and Plant Board: GEORGE B. BABCOCK, Lubbock County.

Member, Gulf States Marine Fisheries Commission: CHARLES BELAIRE, Aransas County.

Member, Board of Trustees, Texas County and District Retirement System: STEVE RADACK, Harris County.

Member, Texas Water Well Drillers Board: GARY DEAN GRANT, Hale County.

Director of the Office of State-Federal Relations: RANDY ERBEN, Bexar County.

Member, Board of Regents, Midwestern State University: MILBURN E. NUTT, Wichita County.

Member, Board of Regents, Texas State Technical Institute: DAVID W. TAYLOR, Harris County.

Member, Texas Commission for the Deaf: CLYDE S. BLACK, Bell County.

Member, Texas Veterans Commission: COLONEL JAMES S. NOVY, Bexar County.

Judge of Criminal District Court No. 1, Tarrant County: MS. SHAREN WILSON, Tarrant County.

Judge of the 238th Judicial District Court, Midland County: JOHN GARY HYDE, Midland County.

Members, Hospital Licensing Advisory Council: DR. DAVID G. BORMAN, Wichita County; DAVID C. BUSH, Harris County.

Member, Board of Medical Examiners, District IV Review Committee: DR. CLYDE R. DANKS, Travis County.

Member, State Committee of Examiners for Speech-Language Pathology and Audiology: DR. GENE R. POWERS, Travis County.

Branch Pilots for the Ports of Galveston County: CAPTAIN WILLIAM R. KERN, Galveston County; CAPTAIN EDGAR L. KING, Galveston County.

Member, School Land Board: WILLIAM F. WARNICK, Lubbock County.

SENATE BILL 49 ON SECOND READING

On motion of Senator Green and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 49, Relating to jury lists for justice courts.

The bill was read second time and was passed to engrossment viva voce vote.

SENATE BILL 49 ON THIRD READING

Senator Green moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **S.B. 49** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed viva voce vote.

SENATE BILL 50 ON SECOND READING

On motion of Senator Green and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 50, Relating to jury service; providing a penalty.

The bill was read second time and was passed to engrossment viva voce vote.

SENATE BILL 50 ON THIRD READING

Senator Green moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **S.B. 50** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 45 ON SECOND READING**

On motion of Senator Haley and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 45, Relating to aid to school districts for the acquisition, construction, renovation, or improvement of certain instructional facilities or capital assets; making an appropriation.

The bill was read second time and was passed to engrossment viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 45 ON THIRD READING**

Senator Haley moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **C.S.S.B. 45** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

MESSAGE FROM THE HOUSE

House Chamber
May 15, 1990

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

The House adopted the Conference Committee Report on **S.B. 1** by a record vote of 91 Ayes, 52 Noes, 0 Present-not voting.

H.C.R. 17, Instructing the Senate Enrolling Clerk to make technical and clerical corrections to **S.B. 1**.

H.C.R. 21, Commemorating the 25th anniversary of the Voting Rights Act of 1965.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

INTRODUCTION OF GUEST

Senator Montford was recognized and introduced Lorraine Bonner, Mayor of Lubbock.

Mayor Bonner, accompanied by Lubbock City Council Members JoAnn Davenport and Omer Bishop, was welcomed by the Senate.

SENATE BILL 24 ON SECOND READING

On motion of Senator Sims and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 24, Relating to the low-level radiation waste disposal impact assistance allocation.

The bill was read second time and was passed to engrossment viva voce vote.

SENATE BILL 24 ON THIRD READING

Senator Sims moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **S.B. 24** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed viva voce vote.

SENATE BILL 34 ON SECOND READING

On motion of Senator Sims and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 34, Relating to temporary speed limits on certain highways.

The bill was read second time and was passed to engrossment viva voce vote.

SENATE BILL 34 ON THIRD READING

Senator Sims moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **S.B. 34** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
SENATE BILL 4 ON SECOND READING**

On motion of Senator Brooks and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 4, Relating to the basis of fees, charges and rates for medical assistance provided by certain hospitals serving as primary teaching hospitals for certain institutions of higher education.

The bill was read second time and was passed to engrossment viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 4 ON THIRD READING**

Senator Brooks moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **C.S.S.B. 4** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed viva voce vote.

SENATE BILL 55 ON SECOND READING

On motion of Senator Brooks and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 55, Relating to the administration of medications by nursing students and medication aide trainees to residents of nursing and convalescent institutions and patients of home health agencies; creating offenses and providing penalties; making an appropriation.

The bill was read second time and was passed to engrossment viva voce vote.

SENATE BILL 55 ON THIRD READING

Senator Brooks moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **S.B. 55** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**SENATE CONCURRENT RESOLUTION 5
ON SECOND READING**

On motion of Senator Brooks and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading:

S.C.R. 5, Declaring the intent of the 71st Legislature in adding Chapter 110, Title 5, Civil Practice and Remedies Code, and Article 5.15-4 of Subchapter B, Chapter 5, Insurance Code.

The resolution was read second time and was adopted viva voce vote.

SENATE BILL 57 ON SECOND READING

On motion of Senator Montford and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 57, Relating to the Department of Information Resources.

The bill was read second time and was passed to engrossment viva voce vote.

SENATE BILL 57 ON THIRD READING

Senator Montford moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **S.B. 57** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**SENATE CONCURRENT RESOLUTION 1
ON SECOND READING**

On motion of Senator Brown and by unanimous consent, the regular order of business and Senate Rule 7.13 were suspended to take up for consideration at this time on its second reading:

S.C.R. 1, Directing the Texas Water Commission in conjunction with the 1990 Joint Task Force on Waste Management Policy to enter into a compact with the states of Oklahoma, New Mexico, Louisiana and Arkansas in developing adequate and environmentally sound storage, treatment and disposal facilities.

The resolution was read second time and was adopted viva voce vote.

SENATE BILL 20 ON SECOND READING

On motion of Senator Brown and by unanimous consent, the regular order of business and Senate Rule 7.13 were suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 20, Relating to the amount of a civil penalty that may be assessed by the Texas Water Commission against a person for violating the Solid Waste Disposal Act (Chapter 361, Health and Safety Code).

The bill was read second time and was passed to engrossment viva voce vote.

SENATE BILL 20 ON THIRD READING

Senator Brown moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **S.B. 20** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed viva voce vote.

SENATE BILL 32 ON SECOND READING

On motion of Senator Glasgow and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 32, Relating to filing fees, other fees, and costs for certain types of lawsuits; making an appropriation to the attorney general.

The bill was read second time and was passed to engrossment viva voce vote.

SENATE BILL 32 ON THIRD READING

Senator Glasgow moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **S.B. 32** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

SENATE JOINT RESOLUTION 10 ON SECOND READING

On motion of Senator Edwards and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.J.R. 10, Proposing a constitutional amendment relating to the procedures for filling vacancies in certain state and district offices.

The resolution was read second time.

Senator Edwards offered the following committee amendment to the resolution:

Amend S.J.R. 10 on page 1, line 12, by inserting the following between "(c)" and "If":

The Senate may give, in accordance with this section, its advice and consent on an appointment of the Governor made during a recess of the Senate. To be confirmed, the appointment must be with the advice and consent of two-thirds of the Senate present.

The committee amendment was read and was adopted viva voce vote.

Senator Edwards offered the following amendment to the resolution:

Amend S.J.R. 10 by striking all below the resolution clause and substituting the following:

SECTION 1. Article IV, Section 12, of the Texas Constitution is amended to read as follows:

Sec. 12. (a) All vacancies in State or district offices, except members of the Legislature, shall be filled unless otherwise provided by law by appointment of the Governor.

(b) An[~~-which~~] appointment of the Governor[~~-if~~] made during a [its] session of the Senate[~~-;~~] shall be with the advice and consent of two-thirds of the Senate present.

(c) In accordance with this section, the Senate may give its advice and consent on an appointment of the Governor made during a recess of the Senate. To be confirmed, the appointment must be with the advice and consent of two-thirds of the Senate present. If an appointment of the Governor is made during the recess of the Senate, the Governor shall nominate the [said] appointee, or some other person to fill the [such] vacancy, [shall be nominated] to the Senate during the first ten days of its next session following the appointment. If the Senate does not confirm a person under this subsection, the Governor shall nominate in accordance with this section the recess appointee or another person to fill the vacancy during the first ten days of each subsequent session of the Senate until a confirmation occurs. If the Governor does not nominate a person to the Senate during the first ten days of a session of the Senate as required by this subsection, the Senate may consider at that session the recess appointee as if the Governor had nominated the appointee.

(d) If the Senate, at any special session, does not take final action to confirm or reject a previously unconfirmed recess appointee or another person nominated to fill the vacancy for which the appointment was made:

(1) the Governor after the session may appoint another person to fill the vacancy; and

(2) the appointee, if otherwise qualified and if not removed as provided by law, is entitled to continue in office until the earlier of the following occurs:

(A) the Senate rejects the appointee at a subsequent session; or

(B) the Governor appoints another person to fill the vacancy under Subdivision (1) of this subsection.

(e) If the Senate, at a regular session, does not take final action to confirm or reject a previously unconfirmed recess appointee or another person nominated to fill the vacancy for which the appointment was made, the appointee or other person,

as appropriate, is considered to be rejected by the Senate when the Senate session ends.

(f) If an appointee is rejected, the [said] office shall immediately become vacant, and the Governor shall, without delay, make further nominations, until a confirmation takes place. The [But should there be no confirmation during the session of the Senate, the] Governor may [shall] not [thereafter] appoint a [any] person to fill a [such] vacancy if the person [who] has been rejected by the Senate for that vacancy.

(g) [; but may appoint some other person to fill the vacancy until the next session of the Senate or until the regular election to said office, should it sooner occur.] Appointments to vacancies in offices elective by the people shall only continue until the next general election.

(h) ~~(fb)~~ The Legislature by general law may limit the term to be served by a person appointed by the Governor to fill a vacancy in a state or district office to a period that ends before the vacant term otherwise expires or, for an elective office, before the next election at which the vacancy is to be filled, if the appointment is made on or after November 1 preceding the general election for the succeeding term of the office of Governor and the Governor is not elected at that election to the succeeding term. For purposes of this subsection, the expiration of a term of office or the creation of a new office constitutes a vacancy.

(i) A recess appointment of the Governor made before the amendment of this section proposed by S.J.R. 10, 71st Legislature, 5th Called Session, 1990, on which the Senate did not take final action to confirm or reject before the date of that amendment to this section, is validated if the appointment is not invalid for any reason other than the Senate's failure to confirm or reject. This section, as amended by S.J.R. 10, applies to the appointment. This subsection expires January 1, 1992.

(j) An action or decision of a state board, commission, or other body or officer that would be invalid if one or more recess appointees of the Governor are considered to be invalidly holding office solely because an appointee's nomination was not confirmed or rejected by final action of the Senate at a special session, is validated from the date of the action or decision if the action or decision is not invalid for any other reason. This subsection expires January 1, 1991.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 6, 1990. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment to clarify the authority of the senate to consider certain nominees to state and district offices and to provide for filling vacancies in those offices."

The amendment was read and was adopted viva voce vote.

On motion of Senator Edwards and by unanimous consent, the caption was amended to conform to the body of the resolution as amended.

The resolution as amended was passed to engrossment viva voce vote.

RECORD OF VOTE

Senator Green asked to be recorded as voting "Nay" on the passage of the resolution to engrossment.

SENATE JOINT RESOLUTION 10 ON THIRD READING

Senator Edwards moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that S.J.R. 10 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Green.

Absent: Santiesteban.

The resolution was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

SENATE RESOLUTION 45

Senator Parker offered the following resolution:

S.R. 45, Enabling the Conference Committee on **S.B. 1** to go outside the bounds of the bill to consider certain specific matters.

PARKER
CAPERTON

The resolution was read.

Senator Caperton offered the following amendment to the resolution:

Amend **S.R. 45** as follows:

- (1) On page 10, line 15, strike "secured tests" and substitute "a secured test".
- (1) On page 15, line 23, delete "14.064(e)" and substitute "14.063(d)".

The amendment was read and was adopted viva voce vote.

The resolution as amended was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1 ADOPTED

Senator Parker called from the President's table the Conference Committee Report on **S.B. 1**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 14, 1990.)

On motion of Senator Parker, the Conference Committee Report was adopted viva voce vote.

RECORD OF VOTES

Senators Bivins, Brown, Harris, Henderson, Leedom, McFarland, Truan and Uribe asked to be recorded as voting "Nay" on the adoption of the Conference Committee Report.

REASON FOR VOTE

Today, I am voting to adopt the Conference Committee Report of **S.B. 1** with much reservation.

The objection I raise with this bill is that it will require school districts to raise ad valorem taxes in order to earn maximum State aid. As I said during the Fourth Called Session when I voted against this bill, the Legislature should use General Revenue funds, and not local property taxes, to provide equitable funding for our State's public schools.

However, the alternative to the higher property taxes I feel this bill will force is turning the school system over to the courts. I find that a totally unacceptable proposition that would only weaken the overall structure of education in Texas. Given the choice, I am voting to keep local money in local districts.

Let me say, though, there are many very good provisions in this bill. Many of the accountability and efficiency measures contained in this bill will be of great benefit to this State's school children, teachers, parents and administrators. I

support those portions of the bill, and commend those who have worked so tirelessly and diligently to better the quality of education available in Texas.

I do take exception to raising the Local Fund Assignment, and placing a greater burden on local school districts at a time when the Legislature has not funded the mandates enacted during the past six years. In addition, rewarding schools for significantly increasing local property taxes is not how I envisioned equity funding would be brought about when this Legislature met in its Third Called Session in February.

I am voting to adopt this Conference Committee Report, but I do so with reservation and trepidation. I pledge to my constituents to continue to seek increased funding for public education, and for more equitable funding for property-poor school districts, but not at the expense of local property taxpayers.

GLASGOW

REASON FOR VOTE

SOME OBSERVATIONS CONCERNING THE CONFERENCE COMMITTEE REPORT ON S.B. 1

1. The legislation removes the contingency language which had tied the use of the formulas in the bill to the passage of an appropriation of \$550 million. Without the revenues to drive them, the formulas are an empty shell in that they will not deliver sufficient money to make the system more equitable than it is now. Even worse, the lack of funding creates a situation where the cost of reform is placed on shoulders of local school districts who will have to raise local property taxes to pay for the little reform that is provided in the bill.

2. The Conference Committee Report reduces the standard of equity from the 95th percentile to the 90th percentile. This bill will create a dual public school system, one for the rich and another for the poor and average wealth districts. Over 140 districts with some 430,000 students will continue to have tax and revenue advantages not available to the remaining 2.8 million children in Texas schools. While some may see it as a compromise, this is like offering us a seat in the middle of the bus, but reserving the front seats for an elite few.

The watering down of equalization was proposed to reduce the cost of the program to the State, and flies in the face of the court's directive that education should receive priority in funding and not be left to "an if funding is available" status.

3. The Conference Committee Report also forces many districts to tax themselves at a higher level than we had proposed in our original Senate Bill in order for them to receive their full guaranteed yield funding. While I agree that all districts should exert local effort, the Conference Committee's higher taxing requirements place an added tax burden on many property-poor districts without delivering very much additional money. To make matters worse, under the plan rich districts will continue to tax themselves at fairly low levels and perpetuate the inequities that plague the school finance system.

4. Some supported the Conference Committee Report in the last special session because they (we) I felt it was critical to keep the schools open and allow teachers to get paid and for our senior students to graduate. This new bill however dilutes some of the more positive features in the Senate legislation and leaves only a shell

of what we started with. Without funding, it will force many of the districts, both rich and poor, to increase their taxes and yet still not achieve the equity that the courts said we must have.

TRUAN

SENATE CONCURRENT RESOLUTION 8

Senator Parker offered the following resolution:

S.C.R. 8, Extending congratulations to Laura Allard, retired Executive Director of the Texas Association for Gifted and Talented.

GUEST PRESENTED

Senator Parker introduced Ms. Allard and escorted her to the President's Rostrum.

Ms. Allard received a sincere expression of appreciation from the Senate as the President presented to her an enrolled copy of **S.C.R. 8**, adopted by the Senate yesterday.

HOUSE CONCURRENT RESOLUTION 17

The President laid before the Senate the following resolution:

H.C.R. 17, Instructing the Senate Enrolling Clerk to make technical and clerical corrections to **S.B. 1**.

The resolution was read.

On motion of Senator Caperton and by unanimous consent, the resolution was considered immediately and was adopted viva voce vote.

SENATE RULE 11.11 SUSPENDED

On motion of Senator Sims and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on Administration might consider the following bill and resolution immediately:

S.B. 25

S.C.R. 2

RECESS

On motion of Senator Brooks, the Senate at 3:51 p.m. took recess, pending the signing of bills and the receipt of messages from the House, until 2:00 p.m. Thursday, May 17, 1990.

AFTER RECESS

The Senate met at 4:44 p.m. and was called to order by the President.

(Senator Parker in Chair)

BILL SIGNED

The Presiding Officer announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bill:

S.B. 1

MEMORIAL RESOLUTIONS

H.C.R. 5 - (Parker): In memory of Joe Hayes of Port Arthur.

H.C.R. 6 - (Parker): In memory of Lloyd Hayes, former Mayor of Port Arthur.

H.C.R. 16 - (Harris): In memory of Gaston Hallam of Dallas.

S.R. 54 - By McFarland: In memory of Department of Public Safety Trooper Glen Perkins of Irving.

CONGRATULATORY RESOLUTIONS

H.C.R. 11 - (Parker): Honoring Representative Al Price on his recent retirement as an American Airlines pilot.

H.C.R. 15 - (Carriker): Extending congratulations to Dr. and Mrs. Harl D. Mansur, Jr., of Wichita Falls on their 50th wedding anniversary.

H.C.R. 21 - (Ellis): Commemorating the 25th anniversary of the passage of the federal Voting Rights Act of 1965.

S.R. 44 - By Barrientos: Declaring the 50th birthday of Bruce Foster Hupp a most suitable occasion to commend his extraordinary character and admirable qualities.

S.R. 46 - By Barrientos: Extending congratulations to the Lady Longhorn basketball team for another spectacular season.

S.R. 47 - By Barrientos: Extending congratulations to the Longhorn men's basketball team and its coaches on its fine performance during the 1989-1990 season and for bringing enjoyment and excitement to all who followed its championship season.

S.R. 48 - By Barrientos: Extending congratulations to the Longhorn men's tennis team on its successful season.

S.R. 49 - By Barrientos: Extending congratulations to the 1990 Lady Longhorn tennis team for its triumphant season.

S.R. 50 - By Barrientos: Extending congratulations to The University of Texas at Austin women's track team on their 1990 championship season.

S.R. 51 - By Barrientos: Commending the Longhorn swimming team for its stunning performance at the national meet.

S.R. 52 - By Barrientos: Extending congratulations to the Lady Longhorn swimming and diving team for winning the national championship.

S.R. 53 - By Barrientos: Extending congratulations to the Lady Longhorn golf team on their impressive triumphs in the Southwest Conference championship match.

S.R. 56 - By Uribe: Commending superintendent Gus Guerra of the Pharr-San Juan-Alamo Independent School District for a job well done and wishing him a most enjoyable retirement.

S.R. 57 - By Green: Extending congratulations to Walter R. Stovall of Houston on his 80th birthday.

RECESS

Pursuant to a previously adopted motion, Senator Parker announced the Senate at 4:45 p.m. would stand recessed until 2:00 p.m. Thursday, May 17, 1990.